

FILED
HARRISBURG, PA

MAY 05 2010

APPLICATION UNDER 28 U.S.C. § 2241 FOR WRIT OF HABEAS CORPUS BY A PERSON IN STATE OR FEDERAL CUSTODY MARY E. D'ANDREA, CLERK
(Do not use as a § 2254 or as a § 2255)

UNITED STATES DISTRICT COURT

Dauphin County District of Pennsylvania

Case No. 3:10-CV-965
(Clerk will supply)

Name and Prison Number: _____

Place of Confinement: Allenwood Low Security Correctional Institution

Name of Applicant: Victor Patterson
(include name under which convicted)

Name of Respondent: William Scism
(Name of Warden)

APPLICATION

1. Name and location of court which imposed the sentence you challenge: _____

Dauphin Criminal County Case No.: 953 - C.D. 1993

2. Date of judgment of conviction: April 11, 1994

3. Length of sentence imposed: 3½ to 7 years

4. Nature of offense(s) of conviction (all counts): Possession, sale and
delivery of cocaine in violation of PA. 35 Section 780 -
113 - 5.

5. What was your plea as to each count? (Check one)

☐ Not Guilty

☒ Guilty

☐ Nolo contendere

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

N/A

6. If you pleaded not guilty, what kind of trial did you have? (Check one) ☐ Jury ☐ Judge only

7. Did you testify at the trial? ☐ Yes ☒ No

8. Did you appeal from the judgment of conviction? ☐ Yes ☒ No

9. If you did appeal, answer the following:

(a) Name of Court: N/A

(b) Result:

(c) Date of result and citation, if known: N/A

(d) Grounds raised:

(e) If you sought further review of the decision on appeal by a higher court, answer the following:

(1) Name of Court: N/A

(2) Result:

(3) Date of result and citation, if known: N/A

(4) Grounds raised:

(f) If you filed a petition for certiorari or appeal in the Supreme Court of the United States as part of that direct appeal, answer the following:

(1) Name of Court: Supreme Court of the United States

(2) Result:

(3) Date of result and citation, if known: N/A

(4) Grounds raised:

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal (a post-conviction proceeding)? ☒ Yes ☐ No

11. If your answer to 10 was "Yes," answer the following:

(a) First post-conviction proceeding:

- Court of Common Pleas
- (1) Name of Court: Dauphin County, Pennsylvania
- (2) Nature of proceeding: Application seeking post-conviction relief.
- (3) Grounds raised: Ineffective assistance of counsel.

(4) Did you receive an evidentiary hearing? ☐ Yes ☐ No

(5) Result: Denied as untimely.

(6) Date of result: _____

(b) Second post-conviction proceeding:

- (1) Name of Court: Superior Court I.O.P. 65.37
- (2) Nature of proceeding: Review of the lower court's denial.
- (3) Grounds raised: Ineffective assistance of counsel.

(4) Did you receive an evidentiary hearing? ☒ Yes ☐ No

(5) Result: Denied as untimely.

(6) Date of result: November 5, November 6, December 24.

(c) Did you appeal to the highest court having jurisdiction the result of the post-conviction proceeding(s)?

(1) First proceeding: ☒ Yes ☐ No

(2) Second proceeding: ☒ Yes ☐ No

- (d) If you did **not** appeal from the adverse result of the post-conviction proceeding(s), explain briefly why you did not:

12. If you have **not** been convicted, answer the following:

- (a) Type of decision or action you challenge: _____

- (b) Who made the decision? _____ N/A

- (c) Date of decision: _____

- (d) Was there a hearing of any kind? ☐ Yes ☐ No

Hearing conducted by: _____

Location and date: _____ N/A

Result: _____

Exhaustion of Administrative Remedies

13. If your claim concerns a FEDERAL PAROLE matter, answer the following:

- (a) Did you appeal the decision to the National Appeals Board of the U.S. Parole Commission? ☐ Yes ☒ No

- (b) Appeal filing date: _____

- (c) Grounds raised: _____

- (d) Result: _____

- (e) Date of result: _____

14. If your claim concerns computation of your FEDERAL sentence, or a claim other than FEDERAL parole, answer the following:

- (a) Did you attempt to resolve your complaint informally? ☐ Yes ☐ No
- (b) Did you appeal to the Warden? ☐ Yes ☐ No
- (c) Did you appeal to the Regional Director? ☐ Yes ☐ No
- (d) Did you appeal to the General Counsel? ☐ Yes ☐ No

If you did not use the Administrative Remedy Procedure, explain why you did not do so:

N/A

15. If you are a STATE prisoner, answer the following:

Did you exhaust all administrative remedies available to you? ☐ Yes ☐ No

If you did not exhaust your administrative remedies, explain why you did not do so:

N/A

16. Have you filed any previous lawsuits related to your present claims(s)? ☐ Yes ☐ No

- (a) Name and location of Court: _____
- (b) Case number and style: _____
- (c) Nature of lawsuit: _____
- (d) Grounds raised: _____
- (e) Result and date: _____

Grounds for Relief

17. State *concisely* every ground on which you claim that you are being held in violation of the Constitution, laws or treaties of the United States. Summarize *briefly* the *facts* supporting each ground. If necessary, you may attach pages stating additional grounds and *facts* supporting the same.

CAUTION: If you fail to set forth all grounds in this application, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in applications for writs of habeas corpus pursuant to 28 U.S.C. § 2241. You may raise any grounds which you may have other than those listed. However, you should raise in this application all available grounds (relating to this conviction or sentence) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check one or more of these listed grounds.

- (i) U. S. Parole Commission unlawfully revoked my parole.
- (ii) Federal Bureau of Prisons unlawfully computed my sentence.
- (iii) Federal Bureau of Prisonsun lawfully denied me credit for time served in state or federal prison.
- (iv) Federal Bureau of Prisons or State prison system unlawfully revoked my good-time credits.
- (v) There is an unlawful detainer lodged against me.
- (vi) I am a citizen and domiciliary of a foreign country and I am in custody for an act which I had a right to commit under the laws of my country.
- (vii) The act for which I was convicted is no longer considered to be a crime, and I cannot raise this issue in a § 2254 petition or a § 2255 motion.

- (a) Ground One: Supporting FACTS (state *briefly* without citing cases or law): _____

Improper Colloquay

- (b) Ground Two: Supporting FACTS (state *briefly* without citing cases or law): _____

Improper Colloquay

(c) Ground Three: Supporting FACTS (state *briefly* without citing cases or law): _____

Improper Colloquay

(d) Ground Four: Supporting FACTS (state *briefly* without citing cases or law): _____

Improper Colloquay

18. If any of the grounds listed in 17(a), (b), (c), and (d) were not previously presented in any other court, either state or federal, state *briefly* what grounds were not so presented, and give your reasons for not presenting them: _____

Improper colloquay by the judge. Attorney never explained
the elements of the charge.

19. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment/decision under attack? ☐ Yes ☒ No

20. Give the name and address, if known, of each attorney who represented you in the following stages of judgment/decision attacked herein:

(a) Preliminary hearing: Danny Gee

(b) Arraignment and plea: Danny Gee

(c) Trial: _____

(d) Sentencing: Danny Gee

(e) Appeal: No appeal filed.

(f) Post-conviction proceeding: Victor Patterson / Pro Se

(g) Appeal from any adverse ruling in a post-conviction proceeding: _____

Victor Patterson / Pro Se

21. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time? ☒ Yes ☐ No

22. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack? ☐ Yes ☒ No

(a) If so, give name and location of court which imposed sentence to be served in the future:

(b) Give date and length of the above sentence: _____

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future? ☐ Yes ☐ No

Wherefore, the applicant prays that the Court grant applicant relief to which he may be entitled in this proceeding.

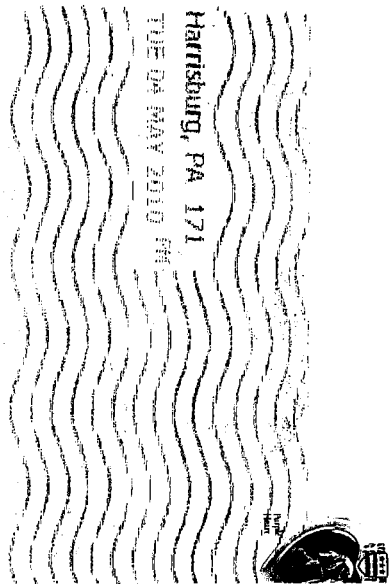
Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct.

Executed On: 5-3-10
(Date)

Victor Patterson
Signature of Applicant

Victor Robinson #072000067
Allanwood Low Security Institution
P.O. Box 1000
White Deer, Pa 17887-1000



07388-067
FEDERAL COURTHOUSE
Clerk Of Court
P.O. BOX 983
Harrisburg, PA - 17108
United States

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MARY E. DANDREA, CLERK
Per _____